

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ALLAN HABERKORN,

Plaintiff,

VS.

COMMERCIAL RECOVERY SYSTEMS, INC.,

Defendant.

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CIVIL ACTION NO. SA-12-CA-923-FB

ORDER OF DISMISSAL WITH PREJUDICE


Before the Court is the Notice of Withdrawal of Complaint and Voluntary Dismissal of Action With Prejudice Pursuant to Rule 41(a) filed April 30, 2013 (docket #13). Plaintiff seeks to voluntarily dismiss this case with prejudice pursuant to rule 41(a) of the Federal Rules of Civil Procedure.

Rule 41(a)(1)(A)(i) allows a plaintiff to “dismiss an action without a court order by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.” Here the record reflects no answer or motion for summary judgment has been filed. Therefore, the Court finds the case should be dismissed with prejudice to refile of the same.

Accordingly, IT IS HEREBY ORDERED that this case is DISMISSED WITH PREJUDICE pursuant to FED. R. CIV. P. 41(a)(1)(A)(i) & (B). IT IS FURTHER ORDERED that motions pending, if any, are DISMISSED and this case is now CLOSED.

It is so ORDERED.

SIGNED this 30th day of April, 2013.


FRED BIERY
CHIEF UNITED STATES DISTRICT JUDGE